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Canada Railways, Canals & Telegraph Lines, Standing Order, 1938

SESSION 1938
(HOUSE OF COMMONS)

Government
Publications

(STANDING COMMITTEE)

ON

(RAILWAYS, CANALS AND TELEGRAPH LINES)

MINUTES OF PROCEEDINGS

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938

No. 8



TUESDAY, MAY 24, 1938

APPENDICES PRINTED IN THIS ISSUE

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Suggested Amendments to Bill No. 31

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OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938

MINUTES OF PROCEEDINGS

TUESDAY, May 24, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 a.m. this day. Sir Eugene Fiset, the Deputy Chairman, presided.

Members present: Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Duffus, Elliott (*Kindersley*), Sir Eugene Fiset, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, Lockhart, MacKinnon (*Edmonton West*), McCulloch, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Mullins, Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Wermenlinger.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft.

A letter, dated May 23, was received from Mr. L. Duncan of Toronto, requesting that a statement enclosed therewith be substituted for the statement supplied by him in error and printed as Appendix No. 1 on page 332 of the Minutes of Evidence. (*See Appendix No. 7 of this day.*)

A letter was received from Mr. Brown, Canadian Manufacturers' Association, stating that that association concurred in the suggestion made by the Hamilton Board of Commerce that Harbour Tolls should be embodied in Bill No. 31. (*See Appendix No. 6 this day.*)

Information asked for by Mr. Heaps at the last meeting regarding rail and canal traffic, and canal costs, was supplied to him.

The Committee proceeded to consider the bill, clause by clause.

Section 2(1) (a) (b) (c) (d) carried.

Section 2(1) (e).

Mr. Stevens moved that 2(1) (e) be deleted and that the following be substituted therefor:—

Goods in bulk means any goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, casks, crates or any other container and the following goods so laden or freighted whether so bundled or enclosed or not: grain and grain products; sugar, flour, feed and fertilizer; ores and minerals; sand, stone, gravel, and china clay; coal and coke; salt, sulphur, soda ash, and calcium chloride; pulpwood, wood pulp; newsprint, poles, logs, lumber and shingles; hay, binder twine; iron and steel products, iron and steel scrap, pig iron; oyster-shell.

The Minister of Transport stated that if Mr. Stevens' proposed amendment were adopted, the bill should be dropped. The question was not fully put.

Mr. Stevens moved that sugar should be included in the list of exemptions. In amendment thereto, Mr. Howden moved that sugar should not be included in such list.

The question being put on the amendment to the amendment, it was resolved in the affirmative on the following recorded division, viz:—

Yeas: Messrs. Bertrand (*Laurier*), Duffus, Elliott (*Kindersley*), Hamilton, Hansell, Hanson, Howden, MacKinnon (*Edmonton West*), McKinnon (*Kenora-Rainy River*), Mutch, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*)—13.

Nays: Messrs. Barber, Brown, Heaps, Isnor, Lockhart, McNiven (*Regina City*), Stevens—7.

Mr. Ross (*Moose Jaw*) moved that grain products and grain by-products should be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 7; nays, 14.

Mr. Ross (*Moose Jaw*) moved that Part II of the bill be deleted. The question being put, it was resolved in the negative, yeas, 3; nays, 16.

Mr. Stevens moved that newsprint, lumber and shingles should be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 9; nays, 11.

Mr. Stevens moved that iron and steel scrap and pig iron be included in the list of exemptions. The question being put, it was resolved in the affirmative.

Mr. Stevens moved that binder twine be included in the list of exemptions. The question being put, it was resolved in the negative, yeas, 5; nays, 14.

At the suggestion of the Minister of Transport, the Committee agreed to insert after "freighted in ships and" the following words: "except as herein otherwise provided."

It was agreed to insert after the word "grain" the following words: "and grain products including flour and mill feeds in sacks," and to delete the last line, viz., "pulpwood, poles and logs" and substitute therefor the following: "pulpwood, woodpulp, poles and logs, including pulpwood and woodpulp in bales."

Section 2(1) (e), as amended, carried.

Section 2(1) (f) and (g) carried.

Section 2(1) (h). On motion of Mr. Parent (*Terrebonne*),

Resolved,—That "one hundred and fifty" be deleted and "five hundred" substituted therefor.

Section 2(1) (h), as amended, carried.

Section 2(1) (i) (j) (k) (l) (m) carried; (n) carried on division.

Section 2(2) carried.

Sections 3 and 4 carried.

Section 5. Mr. Stevens submitted that the Board and not the Minister should issue the licence. Section 5 to stand over.

Sections 6, 7, 8 and 9 carried.

The Committee adjourned until 4 p.m. this day.

The Committee resumed at 4 p.m. Sir Eugene Fiset, the Deputy Chairman, presided.

Members present: Messrs. Bertrand (*Laurier*), Bonnier, Duffus, Dupuis, Edwards, Elliott (*Kindersley*), Sir Eugene Fiset, Hamilton, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, McCallum, McCulloch, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mutch, O'Neill, Parent (*Terrebonne*), Pelletier, Ross (*Moose Jaw*), Stevens.

In attendance: Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Section 10. At the request of Mr. Stevens, this section stood over for redrafting.

Section 11 carried.

Section 12. (1) and (2) carried. (3) was deleted. (4) The words "in the case of" were deleted, and "to" was substituted therefor. (5) On motion of Mr. Bertrand (*Laurier*) the words "Father Point" were deleted and "of the western point of the Island of Orleans" was substituted therefor. On motion of Mr. Isnor, the following was added as subsection (6):—

"(6). The provisions of this Part shall not apply in the case of ships engaged in the transport of goods or passengers between ports or places in the Maritime Provinces and ports or places on the Great Lakes; provided, however, that such ships shall be subject to the provisions of this Part in respect of goods or passengers accepted for transport by water from a port or place on the Great Lakes to another port or place on the Great Lakes."

Section 12, as amended, carried.

Section 2 (1). The Committee reverted to this subsection and inserted the following as paragraph (f):—

"(f) "Great Lakes" means Lakes Ontario, Erie, Huron, (including Georgian Bay), Michigan and Superior, and their connecting waters, and shall include the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans."

Original paragraph (f) to become (g), and the following to be inserted as paragraph (h):—

"(h) "Maritime Provinces" means the Provinces of Nova Scotia, New Brunswick and Prince Edward Island."

The remaining paragraphs of 2 (1) to be relettered.

Section 2 (1), as amended, carried.

Section 13 carried.

Section 14. (1). After "transported" the words "by air" were inserted. (1), as so amended, carried.

(2) and (3) carried.

Section 15 carried with exception of (1) (b) which stood over for redrafting.

Section 16. On motion of Mr. Hamilton, the words "for the transport of goods and passengers" were deleted from (1). Subsection (1), as amended, carried. (2) carried.

Section 17. (1). In line 2, after "by-law" the words "or resolution" were inserted.

(2). After "by-laws" the words "or resolutions" were inserted.

(3). After "by-laws" the words "or resolutions" were inserted.

(4). On motion of Mr. Hamilton, the words "in respect of the transport of goods or passengers" were deleted. After "by-law" the words "or resolution" were inserted. Section 17, as amended, carried.

Section 18 carried.

Section 19. It was agreed, on suggestion of Mr. Stevens, that this section should be placed in front of Section 17. Section carried.

Sections 20 to 31, both inclusive, carried.

Section 32. After " water " the words " or air " were inserted. Section 32, as amended, carried.

Sections 33 and 34 carried.

The Committee adjourned until Thursday, May 26, at 10.30 a.m.

JOHN T. DUN,
Clerk of the Committee.

APPENDIX No. 1

Resolution adopted on May 4, 1938, by the directors of La Chambre de commerce du district de Montréal.

House of Commons—Bill No. 31

La Chambre de commerce du district de Montréal approves the principle of the Bill 31, presently under consideration, to establish a Board of Transport Commissioners of Canada, with authority in respect of transport by railways, ships and aircrafts, which in effect would be the enlargement of jurisdiction of the Board of Railway Commissioners to compare the regulation and control of railway, shipping and air transportation services.

In particular, it approves the principle contained in Part V dealing with agreed charges; it has confidence that the Board shall apply the proposed clauses 35 to 37 inclusive, with a full measure of justice and fair play for the general interest of Canada.

However, "La Chambre" regrets that the new Bill does not cover the control of road transportation.

Incidentally, it also regrets that Bill No. 31 does not provide, as Bill "B" did last year, for the supervising by the new commission of the tariffs enforced in the various ports and harbours of Canada.

True copy.

(Signed) ROSARIO GAUDRY,

This 6th day of May, 1938.

Managing Secretary.

APPENDIX No. 2

TORONTO, May 18, 1938.

Our file C.I.T.L. No. 18.

Mr. THOMAS VIEN, M.P.,
c/o House of Commons,
Ottawa, Ontario.

*In the matter of House of Commons Bill 31
in particular "Agreed Charges"*

DEAR SIR,—Following presentation of the Canadian Industrial Traffic League before the Standing Committee on Railways, Canals and Telegraph Lines on the evening of May 13, it was suggested that copy of the attached communication, dated April 29, 1938, received from the British Traders' Traffic Conference, should be referred to you for your perusal.

The attached communication is self explanatory.

I am mailing three or four extra copies of the attached to some of the members of the committee, who personally requested this information.

Yours very truly,

C. LA FERLE,
President.

Copy

The Traders' Traffic Conference
34 International Exchange
Edmund Street
Birmingham 3

Secretary,
H. H. Mansfield, A.M. Inst. T.

April 29, 1938.

Agreed Charges

DEAR SIR,—I am in receipt of your letter telegram with regard to the above, and in reply thereto may say that there has been no material alteration in the position since my letter to you of April 19, 1937, was written (copy attached).

Since that date I am unaware of any opposition in the Press to the granting of agreed charges either by road or water transport.

Applications, after consultation between the traders involved, are published in the Press, and the exact details of any particular application can be obtained from the Registrar of the Railway Rates Tribunal, Bush House, Aldwych, W.C. 2, at a small cost.

The volume of traffic involved in the granting of agreed charges is comparatively small as will be seen from the enclosed extract from the Judgment of the Proceedings of the Railway Rates Tribunal at the 1935 Review of Standard Charges and Exceptional Charges.

Yours faithfully,

(Sgd.) H. H. MANSFIELD,
Secretary.

The General Secretary,
Canadian Industrial Traffic League,
Toronto, Ontario.

Extract from:—

Proceedings of the Railway Rates Tribunal, Year 1936, No. 24
1936 Review of Standard Charges and Exceptional Charges

Judgment

(Dated 18th June, 1935)

"We are informed by Mr. Wood, Vice-President of the London, Midland and Scottish Railway Company, who gave evidence on behalf of the four Amalgamated Companies, that the Railway Companies had derived benefit from the agreed charges made and that 1½ per cent of the total receipts of the four companies from goods train traffic and merchandise traffic by passenger train was in respect of receipts from agreed charges. This means that the gross receipts of the four Companies in 1934 from agreed charges were approximately £1,500,000, and in our view, based upon the evidence we heard upon each application for approval of each agreed charge, the net revenue of each of the four Companies in 1934 was to some extent better than it would have been if the agreed charges had not been made.

"We find that a modification in all or any of the standard charges and a corresponding general modification of the exceptional charges of any of the Companies would not enable the Company to earn its Standard Revenue, that in these

circumstances we are not required by the Statute to make any modification of the aforesaid charges and accordingly we make no modification."

Traders' Traffic Conference
34 International Exchange
Edmund Street
Birmingham

(3)

19th April, 1937.

T.C. 5738

Road and Rail Traffic Act 1933

Agreed Charges

DEAR SIR,—

I have to acknowledge receipt of your letter of March 11, in regard to agreed charges. As you are probably aware, this clause was inserted in the Road and Rail Traffic Act, 1933, primarily for the purpose of enabling the Railway Companies to compete with road carriers. Incidentally, it may be mentioned also that it made legal a practice which had existed in certain cases before the passing of the Act. In this country, road competition with railways has been mainly in those traffics in the upper reaches of the classification, say from Classes 10 or 11 to 21, but latterly the road carriers have shown signs of extending their operations to traffic in classes lower than these.

Up to the present, the agreed charges which have been sanctioned have been mainly in respect of the retail and distributive trades where large numbers of packages are concerned but where the tonnage is not relatively great, and there has been no disposition on the part of the Railway Companies to apply agreed charges to the staple basic trades of the country such as Iron, Steel, Coal, Engineering, etc., which provide the overwhelming bulk of the tonnage carried.

The enclosed list and description of applications for agreed charges lodged at the beginning of this year will give you a fair idea of the types of traffic covered by the arrangements and it is interesting to note that it is estimated that roughly five per cent only of the receipts of the Railway Companies arise from the conveyance of merchandise conveyed at agreed charges; in this connection you may be interested to read the enclosed copy of an article which appeared in "Modern Transport" of 12th September, 1936.

In reply to the specific point raised in the third paragraph of your letter ("Does this Clause in its working favour the Rail Lines to the exclusion of other types of operators"). It was certainly designed to help the Railway Companies but it gave them no legal exclusive right to the traffic although it should be noted that generally one of the conditions attached to the granting of an agreed charge is that the Traders undertake to hand the whole of their traffic to the Railway Company.

With regard to the fifth paragraph of your letter, where it is indicated that the rail lines in your country state that the same is working out satisfactorily in Great Britain: No doubt this is true from the point of view of the Railway Companies and that section of the Traders which is getting the advantage of agreed charges, but it cannot be denied that there is a very considerable volume of opinion here which views the introduction of the system with misgiving. It has, of course, to be borne in mind that these agreed charges have been granted, as before stated, mainly to traffics in the higher ranges of the Classification, which from the point of view of their value, etc., were perhaps least in need of any assistance, whereas in those industries where, particularly during the depression, some lightening of the burden of railway rates would have been welcomed, no relief was available from agreed charges in such staple industries as coal, iron, steel, etc. In other words, the problem in this country seems

to have been approached not from the point of view of what would really be good for industry but with a view of protecting the Railway Companies' interests.

The introduction of agreed charges into the system of railway rates which had previously been based entirely on classification has had disturbing effects because the agreed charge may disregard all questions of classification, distance, etc., and apply the same figure over a wide range of products and distances. Further, the agreed charge, as indicated above, has only been secured by those industries which have alternative and competitive forms of transport at their command. Apprehension is felt by some traders that the agreed charges system may have no permanence and that it is only being used by the Railway Companies to kill road competition, which once successfully accomplished, may they think be followed by an increase in rates. Any considerable extension of the system of agreed charges would obviously mean the collapse of the classification altogether and the disappearance of any considerations such as "what the traffic will bear," etc.

Yours faithfully,

Secretary.

James Mayor, Esq.,
Canadian Industrial Traffic League,
199 River Street,
Toronto.

APPENDIX No. 3

CANADIAN TRANSPORT CO. LTD.
315 St. Sacramento Street
Montreal
Canada

May 20th, 1938.

Lieut.-Col. THOS. VIEN, M.P.,
Chairman of Standing Committee,
Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

Re Bill 31—The Transport Act 1938

DEAR SIR,—

We wish to draw to the attention of your Committee the wording of subsection four, Section ten of the above Bill which provides,—

"The Minister *may* in the license state the ports between which *the ship or ships named therein* may carry goods or passengers and the schedule of services which shall be maintained."

The inference that we draw from this and preceding sub-sections is that the ship or ships which the licensee proposes to operate must be declared in the application for the license and furthermore that when the license is issued it will only cover the ship or ships so named and no others.

We feel that possibly the full implications of such regulations may not be readily apparent. Operators of regular services who use chartered vessels do not have information far in advance as to the names of the ships to be employed. Ships are secured for forward loading positions as they are required and become available. In fact, in some instances cargo engagements are undertaken for approximate loading dates and the vessel to fill the engagement is subsequently secured and declared to the shipper.

You will appreciate that under such conditions (which are usual in chartering operations) it would be impracticable to name the vessels to be employed by the "lessee" applying for a license.

May we suggest that your Committee give consideration to this point with a view to so amending the section that a "lessee" may from time to time declare to the Minister the names of vessels to be employed in the service for which a license has been issued to him, and the "lessee" to be entitled to use such vessels under his license provided they conform to the provisions of the license and of the Canada Shipping Act.

All the above is respectfully submitted for your careful consideration.

Yours very truly,

CANADIAN TRANSPORT COMPANY LIMITED.

A. L. PALMER
Eastern Manager.

ALP/VGH

APPENDIX No. 4

73 ADELAIDE STREET WEST
TORONTO 2, CANADA
May 23, 1938.

Colonel Thomas VIEN, M.P., K.C.,
Chairman of Committee on
Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ontario.

DEAR SIR:

Re: Bill 31, Part V

For reasons already given in evidence Automotive Transport Association of Ontario is opposed to the principle of "Agreed Charges"; and we respectfully submit that that part of the Bill should be stricken out.

In the event however that the principle of "Agreed Charges" is approved, we respectfully submit that the amendments contained in the enclosed memorandum should be made to Part V.

Yours faithfully,

LEWIS DUNCAN.

Encl.

SUGGESTED AMENDMENTS TO BILL 31

Should the Principle of Part V be approved

Section 35, Subsection 1

Amend the subsection as follows:

- (a) Delete the words "notwithstanding anything in the Railway Act or in this Act or in any other Statute."

The effect of the proposed amendment is to make applicable to agreed charges the longstanding provisions in the Railway Act which forbid rates which are unjust, unreasonable, discriminatory or preferential (Section 325).

- (b) Insert between "shipper" and "Provided" in line 7 "expressed in terms of Canadian currency per hundredweight or per ton of two thousand pounds."

The effect of the proposed amendment is to require agreed charges with different shippers to be expressed in terms which are comparable.

- (c) Add to the subsection the following:

"nor shall such charge be approved until it has been proven to the satisfaction of the Board that the revenue to be had from the traffic covered by the agreement will yield a sum sufficient to pay said traffic's fair proportion of the gross operating expenses, taxes and interest obligations of the carrier."

The proposed amendment substantially provides that where a carrier wishes to make a special arrangement with a shipper the carrier must be prepared to prove to the Board that the business is not being subsidized at the expense of the taxpayers or the bondholders.

Section 35, Section 2

Amend the subsection to make it read as follows:

- (2) Within seven days after the date of the agreement the carrier shall:
- (a) lodge with the Board a duplicate original of the agreement, together with full particulars in the language of the published tariffs of the carrier, of the merchandise estimated to be carried under the agreement, with tonnage, and points of origin and destination and tolls theretofore paid by the shipper for the carriage of the same whether by water, rail, highway or air; together with the assumed reductions or increase in rates for the different movements which may be deemed to result under the proposed agreement.
 - (b) lodge with the Board notice of application for the approval of the agreed charge.
 - (c) thirty days before the hearing of the said application give public notice of the said application by publication of the same and of the agreement once in the *Canada Gazette* and once in a daily newspaper published in the county in which the head office of the shipper is situate; and in such other manner as the Board may direct.

The effect of the proposed amendment is threefold:

- (a) To furnish the Board with particulars of the tonnage, merchandise and rates necessary to determine the effect of the agreed charges;
- (b) To give adequate public information of the terms of the proposed agreement; and
- (c) To allow sufficient time for the proper consideration by interested parties of the effect of the proposed agreement.

Section 35, Subsection 3

Amend the subsection by striking out the words: "or without restriction of time" and by substituting the words "not exceeding one year."

The effect of the amendment is to prevent the growth of a vested interest in agreed charges which might continue for an indefinite period regardless of change of money value or other considerations.

Section 35, Subsection 4 (c)

Amend the subsection by striking out the words: "any carrier" and by substituting the words: "any person engaged in the transport of goods."

The effect of the proposed amendment is to give access to the Transport Board to persons whose traffic may be the subject of the agreed charge or who may otherwise be injuriously affected.

Section 35, Subsection 6

Amend the subsection by striking out the words: "Without restriction of time" and by substituting the words "not exceeding one year."

The effect of the amendment is similar to that of the amendment proposed to Subsection 3.

Section 35, Subsection 8

Amend the subsection by:

- (1) Striking out the words "without restriction of time" in Line 21.
- (2) Striking out the words "any carrier" in (c) and substituting "any person engaged in the transport of goods."

The effect of the proposed amendment is to permit carriers within provincial jurisdiction whose business may have been affected by the approval of an agreed charge to apply to the Board to vacate its order.

- (3) Striking out the words "after the expiration of one year from the date of the approval."

The effect of the proposed amendment is to give the Board power at any time to withdraw its approval. As the legislation stands at present the Board is deprived for one year of any jurisdiction to rescind its order, no matter under what circumstances made, or how erroneous or what hardship or injustice it may be causing.

Section 35, Subsection 11

Amend Subsection 11 to read as follows:

11. On any application under this Act the Board shall have regard to all considerations which appear to it to be relevant and in particular to the following:—

- (a) It is hereby declared to be the policy of Parliament to develop and preserve systems of transport by water, rail, highway and air properly adapted to the needs of trade and commerce of Canada and of the national defence; to foster sound economic conditions in and to develop co-ordination between such systems of transport without unjust discriminations, undue preference or advantages, or unfair or destructive competitive practices.
- (b) The rates at which the different items of traffic covered by the proposed agreement are calculated in arriving at the agreed charge; and their relation to the then existing standard, special or competitive tariffs of the carriers for the same items of traffic.
- (c) The effect which the making of the agreed charge or the fixing of a charge is likely to have or has had in improving the net profits of the carrier available for dividends after charging the traffic included in the agreement with its proper share of operating expenses, taxes, interest and other obligations of the carrier.

The effect of the amendment is threefold:—

- (1) To make it possible for the Board to consider matters other than the narrow one of the effect of the charge on carrier and shipper; and to take a national view of the matters under consideration; and to develop as well as the constitution permits the complementary rather than the competitive aspects of the four media of transportation. The amendment introduces the principle embodied in Section 202 of the Motor

Carriers Act, 1935, as administered by the Interstate Commerce Commission which reads:

- (a) It is hereby declared to be the policy of Congress to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, and reasonable charges therefor, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices; improve the relations between, and co-ordinate transportation by and regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defence; and co-operate with the several States and the duly authorized officials thereof and with any organization of motor carriers in the administration and enforcement of this part.
- (2) To place before the Board all relevant particulars and intermediate steps which lead up to and are implicit in the final figure of the agreed charge.
- (3) To ensure that shippers who are favoured with agreed charges are not given transportation services at uneconomic figures, or at prices which cast the burden of railway operating costs, taxes and interest on other classes of traffic or on the taxpayers.

Section 37

Amend subsection (1) of Section 37 to read as follows:—

Upon complaint to the Governor General in Council by any person engaged in the transport of goods by water, rail, highway or air or by any body of persons representative of the interests of persons engaged in the transport of goods by water, rail, highway or air that any existing agreed charge places the business of such person or any business represented by such body of persons at an undue or unfair disadvantage the Governor General in Council may refer such complaint to the Board for investigation whereupon the Board may suspend such agreed charge pending hearing and if the Board after hearing finds that the effect of the agreed charge puts the complainant or those represented by the complainant at an undue or unfair disadvantage, or that any portion of the traffic covered by the agreed charge is being carried at a loss after charging that traffic with its proper proportion of operating expenses, taxes, interest and other obligations of the carrier, or that the effect of the agreed charge is otherwise undesirable the Board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it deems proper.

The effect of the amendment is to confer on the Governor General in Council power to hear complaints from competing carriers as to the injurious effect of an agreed charge and to refer the same to the Board for consideration. It is considered the application should be made to the Governor General in Council rather than to the Minister for the adverse effect of an agreed charge may affect interests within the purview of other Ministers and Departments, e.g., National Defence, Trade and Commerce, National Revenue, Finance, Agriculture, etc.

APPENDIX No. 5

Wm. H. Funston, Jr., *President*F. P. Healey, *Managing Secretary*THE HAMILTON CHAMBER OF COMMERCE
Hamilton, Canada

Telephone—Baker 2463

File Trans.

May 23, 1938.

Lt. Col. THOMAS VIEN, M.P.,
Chairman,
Standing Committee on Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

DEAR SIR,—On Thursday, May 12th, your Committee was kind enough to hear our presentation regarding Transport Bill No. 31, at which time we asked for permission to submit an amendment covering Harbour Tolls, and I was told by the Deputy Chairman, Sir Eugene Fiset, that I would be permitted to prepare an amendment and file it with the Clerk, and that it would be considered with the rest when the Committee sits (kindly see page 182, No. 5 of the Proceedings, dated Thursday, May 12th, 1938).

In accordance with this I submitted a suggested new part covering Harbour Tolls as per the attached.

This morning on receipt of Proceedings No. 7, page 302, dated Thursday, May 19th, 1938, I noticed that our submission regarding Harbour Tolls is included but that the Deputy Chairman stated that it had nothing whatever to do with the Bill before the Committee and that it had better be just left with the Clerk.

In view of the fact that we were previously given permission to submit this to the Committee and also as we firmly believe that the part suggested by us should be incorporated in Transport Bill No. 31, I would strongly urge that your Committee give this consideration when going over the Bill, clause by clause, and it is our hope that it will be your recommendation to have it added in the Bill.

I do not know just what your order of reference covers with regard to this Bill but we firmly believe that any suggested change, elimination or addition to the Bill should be given consideration.

Thanking you for your kind attention, I am

Faithfully yours,

J. G. SAUNDERS,

Manager, Transportation Dept.

The Hamilton Chamber of Commerce

Submission

re Suggested New Part to be added to House of Commons of Canada Bill No. 31

PART —

“HARBOUR TOLLS”

The Board shall when requested by any shipper or any representative body of shippers or any carrier make inquiry in respect of any harbour toll as to whether such harbour toll is just and reasonable under all the circumstances,

and without restricting the generality of the foregoing the Board shall in the conduct of such inquiry have regard to—

- (a) the service, privilege, advantage or benefit enjoyed or provided in respect of which the harbour toll is charged;
- (b) the cost of providing, operating and maintaining the facilities and services of the harbour, including, without restricting the generality of the foregoing, interest on capital investment and depreciation;
- (c) comparable tolls and charges payable at any harbour in Canada or elsewhere than in Canada;
- (d) whether such harbour toll is under substantially similar circumstances and conditions charged equally to all persons;
- (e) the effect of such harbour toll upon the movement of ships, goods or passengers, as the case may be, through the harbour and upon the movement of trade generally.

(2) The Board shall with its report transmit to the Minister a copy of the evidence taken by the Board in the course of its inquiry.

If the Board, after inquiry as hereinbefore provided is of the opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the Board to forward with its report a recommendation to the Minister for such action as he deems fit and after said report is filed with the Minister it shall be made public to the parties who respectively made and opposed the complaint.

The National Harbours Board and all other Harbour Boards shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariff tolls including all commuted rates.

APPENDIX No. 6

CANADIAN MANUFACTURERS' ASSOCIATION INC.

Please refer to file 1458

TORONTO 2, May 23, 1938.

Mr. JOHN T. DUN,
Clerk of Committee on Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ont.

DEAR SIR,—In accordance with the request of the Committee with respect to that portion of the submissions of the Hamilton Chamber of Commerce dealing with Harbour Tolls, there has been forwarded, we understand, to your Committee a draft of an additional part which they requested be added to House of Commons Bill No. 31 now before the Committee. A copy of the draft has been forwarded to us by the Hamilton Chamber of Commerce, and while we have not had an opportunity of placing this proposal before our members in the form submitted by the Hamilton Chamber of Commerce, the general question of the desirability of having matters outlined in the proposed part dealt with by the Board of Transport Commissioners in connection with a revision of charges made by the National Harbours Board and certain other ports under the jurisdiction of Harbour Commissions was considered by appropriate committees of the Association and it was agreed that some arrangement of this kind should be provided so that shippers would be assured that tariffs covering rules, regulations and tolls of harbours would be handled in a somewhat similar manner to that required of railway tariffs. Therefore, as the suggestion of the Hamilton

Chamber of Commerce appears to meet these views in part, the addition of a part to House of Commons Bill No. 31 in line with their suggestion would seem to be desirable.

Yours faithfully,

J. B. BROWN,
Manager, Transportation Department.

APPENDIX No. 7

73 Adelaide Street West,
Toronto 2, Canada,

May 23, 1938.

DEAR SIR,—From page 332 of the Proceedings of the Standing Committee I regret to note that, through an error in this office, the wrong enclosure was included in my letter of May 17, 1938.

A copy of the enclosure which should have been forwarded is enclosed herewith.

Yours faithfully,

Enc.

LEWIS DUNCAN.

JOHN T. DUN, Esquire,
Clerk of the Committee on
Railways, Canals and Telegraph Lines,
House of Commons,
Ottawa, Ontario.

(Substitute the following for what appears as Appendix No. 1 on page 332 of evidence.)

SUMMARY OF REVENUES AND EXPENDITURES ON ROADS BY PROVINCE OF ONTARIO AS SUBMITTED BY PROVINCIAL DEPARTMENT OF HIGHWAYS

	1937	1936	5 Months 1935	1934	1933
<i>Expenditures by Province of Ontario</i>					
1. On King's Highway.....	6,163,249	3,537,408	2,050,346	11,821,640	3,079,190
2. On County Roads.....	1,934,474	1,834,186	1,266,757	1,463,519	2,105,893
3. Township Roads.....	1,819,231	1,280,907	622,084	1,014,914	1,391,975
4. Colonization Roads.....	350,148	356,001	153,080	228,943	228,700
5. Northern Development Roads.....	4,502,433	13,307,570	9,001,783	22,733,398	4,697,376
Total.....	\$14,769,535	\$20,316,072	\$13,094,050	\$37,262,414	\$11,503,134
<i>Revenue received by Province of Ontario from</i>					
1. Gas Tax.....	15,764,158	15,021,993	4,789,718	12,961,343	12,692,056
2. Registration Fees.....	10,916,491	9,144,264	6,138,807	8,049,714	7,421,159
3. Miscellaneous Sources.....	118,309	117,571	39,817	81,211	101,345
Total.....	\$26,798,958	\$24,283,828	\$10,968,342	\$21,092,268	\$20,214,560

APPENDIX No. 8

THE BOARD OF TRADE OF THE CITY OF TORONTO

F. D. TOLCHARD,
General Manager

T. MARSHALL,
Transportation
Adviser.

TORONTO, CANADA, May 23, 1938.

Lt.-Col. THOMAS VIEN, K.C., M.P.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ont.

DEAR SIR,—May I request that correction be made in the sixth line of page 186 of the minutes of proceedings respecting Bill 31 by changing the word "acceptable" to "accessible" and the word "men" in the same line to "we," these being the terms I think I used or intended to.

Yours very truly,

T. MARSHALL,
Transportation Adviser.

TM/P

APPENDIX No. 9

THE CANADIAN INDUSTRIAL TRAFFIC LEAGUE

199 River Street,
Toronto, Ontario,

May 23, 1938.

Col. THOS. VIEN, K.C.,
Chairman, Committee on Railways, Canals and Telegraphs,
House of Commons,
Ottawa, Ontario.

DEAR SIR,—On reading the printed proceedings dealing with the evidence submitted by the writer on Friday, May 13, 1938, Volume 6, I find that there are one or two corrections that I would like to have recorded.

Page 257, my answer to the third question on this page should read as follows: "Well, you have got to take these matters and deal with them just exactly as they are provided for in the statute, and I am satisfied that with the proper administration and interpretation of the Bill if placed on the statute books as now printed The Board of Railway Commissioners would *not* do exactly as they did in the Regina case."

Then on page 256 at line 39, following the word business, in reading from the minutes of a conference between our League members and the Vice-Presidents of the Railway Companies, a very important paragraph in the discussion was not included. This should have read as follows:

"Q. What principles govern the determination of what would constitute discrimination under the proposed Agreed Charges section? Would they be the same as those governing under the Railway Act to-day?

A. In this connection it was pointed out that the rate established to-day on carload traffic is available to the man shipping one car as the man shipping 100 cars and the only distinction in quantity recognized by the Board of Railway Commissioners under the Railway Act is between carload and l.c.l. It was sug-

gested that if the Board found that a shipper is giving the carrier all his business and shipping under substantially similar conditions, it would fix the same charge, or if the circumstances and conditions are not similar they might shade the rate. Under the proposed legislation the Board might adopt some set standards but it was suggested by the railway representatives that the principles determining whether a man is unjustly discriminated against or not would be the same as under the Railway Act. Enlarging on this in respect to unjust discrimination the Board might take into consideration the question of quantity of carloads as train loads, as against carloads."

When giving my evidence, I was suffering from a very severe cold and hoarseness, and it may be that my evidence was not clear and distinct for the reporter.

I trust on behalf of our League that you will have above correction printed in your report of proceedings.

Thanking you, I remain,

Yours very truly,

JAMES MAYOR,

Chairman, Special Committee on Bill 31.

JM/K

Chamber of Commerce appears to meet these views in part, the addition of a part to House of Commons Bill No. 31 in line with their suggestion would seem to be desirable.

Yours faithfully,

J. B. BROWN,
Manager, Transportation Department.

APPENDIX No. 7

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May 23, 1938.

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Yours faithfully,

Enc.

LEWIS DUNCAN.

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